

**MEDICAL LICENSING BOARD OF INDIANA
INDIANA GOVERNMENT CENTER SOUTH
402 WEST WASHINGTON STREET
ROOM W064
INDIANAPOLIS, INDIANA 46204**

MINUTES OF OCTOBER 28, 2010

Stephen Huddleston, J.D., President called the meeting to order at 9:30 a.m. and declared a quorum in accordance with IC 25-22.5.

Members Present: Stephen Huddleston, J.D., Consumer
Member, President
Robert Allen, M.D.
Lynda Smirz, M.D.
Worthe Holt, Jr., M.D.
Bharat Barai, M.D., Vice President
(arrived at 10:30 a.m.; left at 1p.m.)
Donald Vennekotter, M.D., Secretary

Staff Present: Kristen Kelley, Board Director
Professional Licensing Agency
Jody Edens, Assistant Board Director
Professional Licensing Agency
James Schmidt, Deputy Attorney General
Office of the Attorney General

The Board voted to adopt the agenda as amended.

Participating Board Members: Stephen Huddleston, J.D., Lynda Smirz, M.D.,
Donald Vennekotter, M.D.

Barai/Vennekotter, 4/0/0
Motion carries

The Board voted to adopt the minutes of the September 23, 2010 meeting and of the October 12, 2010 conference call.

Participating Board Members: Stephen Huddleston, J.D., Lynda Smirz, M.D.,
Donald Vennekotter, M.D.

Barai/Vennekotter, 4/0/0
Motion carries

PERSONAL APPEARANCES

RENEWAL APPLICANTS

The following appeared before the full Board for their scheduled personal appearances and were sworn in under oath:

Gregory Ebner, M.D. – Dr. Ebner appeared before the Board regarding positive responses on his initial application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., Donald Vennekotter, M.D.

Dr. Ebner expressed that he would like to obtain counsel to represent him before the Board.

After discussion the Board moved to CONTINUE this matter in order to give Dr. Ebner time to obtain counsel.

Allen/Vennekotter, 4/0/0
Motion carries

Thomas Byrne, M.D. – Dr. Byrne appeared before the Board regarding positive responses on his initial application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D.

In 1990, Dr. Byrne's New York license was placed on Summary Suspension and subsequently Revoked.

In 1992, his North Carolina license was revoked based upon the action taken in New York.

In 1995, he was issued a license by the Oklahoma Board and in 2010 he was issued a license by the Georgia Board and Illinois Board after all Boards reviewed the revocation information.

After discussion, the Board moved to APPROVE Dr. Byrne's application for licensure.

Allen/No second, Motion fails

After further discussion the Board moved to CONTINUE this matter in order for Dr. Byrne to obtain his Illinois licensure information for the Board to review.

Smirz/Vennekotter, 4/0/0
Motion carries

Gregory Ebner, M.D. – Dr. Ebner appeared before the Board regarding positive responses on his initial application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D.

Dr. Ebner requested a continuance of this matter in order to obtain counsel.

After discussion the Board moved to CONTINUE this matter to allow Dr. Ebner to obtain counsel.

Allen/Vennekotter, 4/0/0
Motion carries

Sharon McRae, M.D. – Dr. McRae appeared before the Board regarding a positive response on her initial application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D.

Dr. McRae was terminated from her position and her privileges were revoked from the hospital where she worked.

After discussion, the Board moved to TABLE this matter and requested that Dr. McRae obtain the following information:

- Letter from her employer and hospital on why they terminated her and why her privileges were revoked.
- Copies of letters or dates of her employer's attempts to notify her of her suspension/revocation of privileges
- Any documentation/information relating to poor patient care

CONSENSUS
Motion carries

ADMINISTRATIVE HEARINGS

Rodney Joe Anderson, D.O., License No. 02000697A, Cause No. 2010 MLB 0015

Respondent did not appear in person and was not represented by counsel regarding a Proposed Settlement Agreement scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Bharat Barai, M.D.

Mr. McGee informed the Board that Dr. Anderson was aware that he was to appear for this settlement agreement.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to CONTINUE this matter and set it for a final hearing in December 2010.

Smirz/Allen, 6/0/0
Motion carries

This matter was reconvened at 3:20 p.m. as Dr. Anderson was present at this time. The Board moved to set the Continuance motion aside and move forward with the settlement agreement.

CONSENSUS
Motion carries

A settlement agreement between the Respondent and the Attorney General's Office was presented to the Board for review. The settlement agreement included a LETTER OF REPRIMAND and a FINE.

The Board moved to modify the settlement agreement to add a \$1,000 FINE. All parties agreed verbally to the amount of the FINE.

Smirz/Allen, 6/0/0
Motion carries

Olanrewaju O. Esan, M.D., License No. 01046493A, Cause No. 2009 MLB 0017

Respondent did appear in person and was not represented by counsel regarding a Proposed Settlement Agreement scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D.

In 2008, Dr. Esan's license was disciplined in New York.

A settlement agreement between the Respondent and the Attorney General's Office was presented to the Board for review. The settlement agreement included INDEFINITE PROBATION with terms and conditions.

After reviewing the settlement agreement and taking its file into consideration, the Board moved to MODIFY the settlement agreement to include a FINE of \$250. All parties verbally agreed to the modification.

After discussion the Board moved to APPROVE the modified settlement agreement.

Allen/Vennekotter, 4/0/0
Motion carries

Leticia K. Chy-Koa, M.D., License No. 01024246B, 2010 IPB 0052

Respondent did not appear in person and was not represented by counsel regarding a Petition to Reinstate Controlled Substance Registration scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D., Worthe Hold, Jr., M.D., Bharat Barai, M.D.

Dr. Chy-Koa recently submitted a letter indicating she was retiring in November 15, 2010. However she did not state that she wished to withdraw her request to reinstate her controlled substance registration.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to CONTINUE this matter until the December 2, 2010 meeting.

Allen/Smirz, 6/0/0
Motion carries

Cynthia D. Ellis, M.D., License No. 01034480A, Cause No. 2007 MLB 0027

Respondent did appear in person and was represented by counsel Robert Saint regarding a Request to Modify the Order of Probation scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D., Bharat Barai, M.D.

Fred Frick, M.D., Indiana State Medical Association Impaired Physicians Program was sworn in to testify.

Dr. Ellis has not been in good standing with ISMA for the past two (2) years and is requesting to have her probation order modified to allow her to be supervised by P. Ryan Moe, M.D. for a one (1) year period in order to show ISMA one (1) year of compliance in order to get back into the ISMA program to meet her probation requirements.

In June 2010, she was arrested in Chicago, Illinois for a DUI.

Dr. Frick testified they have set a twelve (12) month sobriety requirement on Dr. Ellis. If she shows twelve (12) months of sobriety she would be a candidate for re-entry into the ISMA program.

The Board commented that Dr. Ellis has the ability to elect to do this on her own that she doesn't need the Board to amend her probation order. The Board's probation order indicates she must be in compliance with her ISMA program and if she has to do this to get where she should be with her probation order, than that's for her to decide.

After having considered the evidence presented, testimony of the witness and taking official notice of its file in this matter the Board moved to DENY Dr. Ellis' request for modification.

Barai/Vennekotter, 5/0/0
Motion carries

Gregory S. Masimore, M.D., License No. 01042621A, Cause No. 2006 MLB 0011

Respondent did appear in person and was not represented by counsel regarding a Request to Withdraw the Order of Probation scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General

and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Bharat Barai, M.D.

Candace Backer, Indiana State Medical Association Impaired Physicians Program was sworn in as a witness.

In November 2010, Dr. Masimore will have six (6) years of sobriety.

His Ohio probation has been withdrawn.

He voluntarily agreed to continue his monitoring in the State of Ohio.

Ms. Backer testified that Dr. Masimore has almost completed five (5) years of documented sobriety. She also stated he has been exceptionally compliant with his ISMA program and that they support his request to withdraw probation.

After having considered the evidence presented, testimony of the witness and taking its file into consideration the Board moved to WITHDRAW the Order of Probation.

Barai/Smirz, 6/0/0
Motion carries

John L. Myers, M.D., License No. 01065083A, Cause No. 2008 MLB 0016

Respondent did appear in person and was not represented by counsel regarding a request to Withdraw the Order of Probation scheduled before the Board. The State of Indiana was represented by Michael Minglin, Senior Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Bharat Barai, M.D.

Candace Backer, Indiana State Medical Association Impaired Physicians Program was sworn in to testify.

Dr. Myers reported that the State of Kentucky has lifted his probation and he has been sober for four and one-half (4 ½) years.

Ms. Backer testified that he has five (5) years of documented recovery. Given where he is in his recovery they support his request to have his probation withdrawn.

After having considered the evidence presented, testimony of the witness and taking official notice of its file in this matter the Board moved to WITHDRAW the Order of Probation.

Smirz/Allen, 6/0/0
Motion carries

Larry D. Ratts, M.D., License No. 01020171A, Cause No. 2010 MLB 0009

Respondent did appear in person and was represented by counsel David Hensel regarding a Proposed Settlement Agreement scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D., Donald Vennekotter, M.D., Bharat Barai, M.D.

A settlement agreement between the Respondent, his counsel and the Attorney General's Office was presented to the Board. The settlement agreement included VOLUNTARY and PERMANENT REVOCATION.

After reviewing the settlement agreement and taking its file into consideration, the Board moved to MODIFY the settlement agreement. The Board added a \$500 FINE and requested to strike number seven (7) of the settlement agreement. All parties agreed verbally to both changes.

After discussion the Board moved to APPROVE the amended settlement agreement.

Smirz/Barai, 5/0/0
Motion carries

Michael J. Mulligan, M.D., License No. 01043312A, Cause No. 2007 MLB 0023

Respondent did appear in person and was not represented by counsel regarding an Order to Show Cause scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D., Bharat Barai, M.D., Worthe Holt, Jr., M.D.

Fred Frick, M.D., Indiana State Medical Association Impaired Physicians Program was sworn in as a witness.

Dr. Frick testified that Dr. Mulligan is not in compliance with his ISMA contract. He has had five (5) urine drug screens (UDS) that have been documented as missed. Dr. Frick said that the UDS were actually given but that Dr. Mulligan didn't make payment to the lab, therefore the lab was not able to perform the UDS on a timely basis.

Dr. Frick also stated that he has seen no proof of Dr. Mulligan taking steps to participate in a twelve (12) step program, which is a requirement in his contract.

He has not practiced since 2006 and has not attempted to participate in any retraining program.

Dr. Mulligan stated that he is not an alcoholic but rather he abused alcohol. He stated if you count the glass of wine he had, his sobriety date is December 2007.

After having considered the evidence presented, testimony of the witness and taking official notice of its file in this matter the Board moved to place Dr. Mulligan's license on INDEFINITE SUSPENSION.

Smirz/Vennekotter, 6/0/0
Motion carries

Gregory L. Spangler, M.D., License No. 01028174A, Cause No. 2010 MLB 0010

Respondent did appear in person and was represented by counsel Barclay Wong regarding an Extension of Summary Suspension scheduled before the Board. The State of Indiana was represented by Michael Minglin, Senior Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., M.D, Donald Vennekotter, M.D., Bharat Barai, M.D.

A settlement agreement between the Respondent, his counsel and the Attorney General's Office was presented to the Board for review. The settlement agreement included INDEFINITE SUMMARY SUSPENSION until the regularly scheduled Board meeting following the conclusion of the criminal trial.

The Board further discussed the settlement agreement and suggested the following amendment: INDEFINITE SUMMARY SUSPENSION until the January 2011 Board meeting unless either party requests an earlier hearing. All parties agreed verbally to this amendment.

After further discussion the Board APPROVED the amended settlement agreement.

Allen/Vennekotter, 5/0/0
Motion carries

DISCUSSION

Recommendations for General Assembly Update: Mr. Huddleston gave an update of the Board's recommendations to the General Assembly.

Request for comments from FSMB on "Reporting of Withdrawals of Licensure Applications to FSMB" – After discussion the Board stated they are opposed to this and requested that Ms. Kelley relay their opinion.

Smirz/Allen, 5/0/0
Motion carries

Request for comments from FSMB on "Use of Doctor Title in Clinical Settings" – After discussion the Board stated they strongly agree to the Federation's statement on this subject and requested that Ms. Kelley relay their opinion.

Smirz/Allen, 5/0/0
Motion carries

REVIEW OF INITIAL/RENEWAL APPLICATIONS

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Bharat Barai, M.D., Lynda Smirz, M.D, Donald Vennekotter, M.D.

The Board reviewed the positive response information on the following applicant and approved him for licensure: Vennekotter/Allen, 6/0/0 Motion carries

Wei Lin, M.D.

The Board reviewed the positive response information on the following applicants and requested them to appear before the Board: Smirz/Barai, 6/0/0 Motion carries

Jeffrey Fadel, M.D.

Hatem Dajani, M.D.

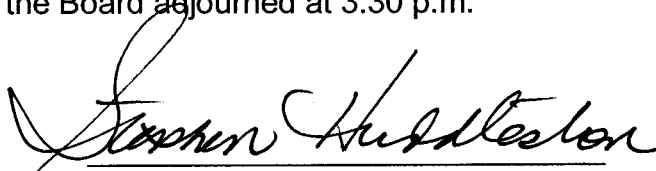
PHYSICIAN ASSISTANT PRESCRIPTIVE AUTHORITY APPLICATIONS

The Board reviewed and approved the following Physician Assistant Prescriptive Authority applications: Smirz/Barai, 4 /0/0 Motion carries

Participating Board Members: Stephen Huddleston, J.D., Lynda Smirz, M.D., Donald Vennekotter, M.D., Bharat Barai, M.D.

David Daugherty, 10001118A
Heather Peters, 10001136A
Jeremiah Stewart, 10001038A
Corine Lents, initial app
Andrew Nord, 10001117A
Jill Hupfer, 10000667A
Melissa Thomas, 10001231A
Shaun Grammer, 10001225A
Natasha Stewart, 10001011A
Rachael Collins, 10001109A
Jena Rorvig, 10001223A

There being no further business the Board adjourned at 3:30 p.m.



Stephen Huddleston, J.D., President



Donald Vennekotter, M.D., Secretary